

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

THE BANK OF NEW YORK MELLON,
Plaintiff,
v.
PETRA MARTINEZ, et al.,
Defendants.

Case No. 19-cv-03358-VC

ORDER REMANDING CASE

Re: Dkt. No. 12

This unlawful detainer action is remanded to the Monterey County Superior Court for lack of subject matter jurisdiction. While the value of the property may exceed \$75,000, the amount in controversy in an unlawful detainer case is determined by “the amount of damages sought in the complaint, not the value of the subject real property.” *Bank of New York Mellon v. Clarke*, No. 15-cv-02400-MEJ, 2015 WL 4380612, at *2 (N.D. Cal. June 2, 2015). Because the Bank is requesting \$60 per day in damages from the expiration of the Notice to Quit on May 14, 2018, their damages fall well below the \$75,000 threshold. Nor can the defendants assert federal question jurisdiction on the basis of a constitutional defense they might raise. *See Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987) (“[F]ederal jurisdiction exists only when a federal question is presented on the face of the plaintiff’s properly pleaded complaint.”). Accordingly, this case is not properly in federal court.

The defendants’ decision to remove this case is likely sanctionable, and there is a serious concern that they are merely attempting to delay the unlawful detainer proceedings. However, because the defendants are representing themselves, they will get one final warning. Any similarly meritless removal will result in monetary sanctions under 28 U.S.C. § 1927 or the Court’s inherent authority.

IT IS SO ORDERED.

Dated: July 5, 2019



VINCE CHHABRIA
United States District Judge